

## **Notice of Public Hearing of the Hearing Officer of The City of Yuma**

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Hearing Officer of the City of Yuma and to the general public that the Hearing Officer will hold a hearing open to the public on December 10, 2020 at 9:30 a.m. in City Council Chambers, One City Plaza, Yuma, AZ.

The Agenda for the hearing is as follows:

	<p style="text-align: center;"><b>Agenda</b> <b>Hearing Officer Public Hearing</b> <b>City Hall Council Chambers</b> <i>One City Plaza</i></p> <p style="text-align: center;"><b>Thursday, December 10, 2020, 9:30 a.m.</b></p>
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Consistent with the March 13, 2020 Arizona Attorney General informal opinion Relating to Arizona's Open Meeting Law and COVID-19, in order to protect the public and reduce the chance of COVID-19 transmission, the meetings of the City of Yuma Hearing Officer will be conducted with limited public, in-person access, consistent with social distancing requirements.

***City Hall Council Chambers will be open with limited public access.***

Public comment regarding any **agenda** item can be provided in written format to the Hearing Officer secretary at email address [planning@yumaaz.gov](mailto:planning@yumaaz.gov) no later than 15 minutes prior to the start of the scheduled meeting. Comments received timely will be read into the record when the referenced agenda item is discussed.

### **CALL TO ORDER**

**CONSENT CALENDAR** — All items listed under the consent calendar will be approved by one motion. There will be no separate discussion of these items unless the Hearing Officer or a member of the audience wishes to speak about an item.

### **APPROVAL OF MINUTES**

- November 12, 2020

### **APPLICATIONS TO BE CONSIDERED**

1. **VAR-32584-2020:** This is a request by Michael and Lori O'Kelley, for a variance to reduce the front yard setback from 20' to 8', reduce the side yard setback from 7' to 0', and increase the lot coverage from 35% to 37.5% to allow the construction of a carport, in the Low Density Residential (R-1-6) District, for the property located at 439 W. 19<sup>th</sup> Street, Yuma, AZ.

### **ADJOURN**

A copy of the agenda for this meeting may be obtained at the office of the City Clerk at City Hall, One City Plaza, Yuma, Arizona, 85364, during business hours, Monday through Friday, 8:00 A.M. to 5:00 P.M. In accordance with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, the City of Yuma does not discriminate on the basis of disability in the admission of or access to, or treatment or employment in, its programs, activities, or services. For information regarding rights and provisions of the ADA or Section 504, or to request reasonable accommodations for participation in City programs, activities, or services contact: ADA/Section 504 Coordinator, City of Yuma Human Resources Division, One City Plaza, PO Box 13012, Yuma, AZ 85366-3012; (928) 373-5125 or TTY (928) 373-5149

**Hearing Officer Meeting Minutes  
November 12, 2020**

A meeting of the City of Yuma's Hearing Officer was held on Thursday, November 12, 2020, in City Council Chambers, One City Plaza, Yuma, AZ.

**HEARING OFFICER** in attendance was Sonia Ramirez.

**CITY OF YUMA STAFF MEMBERS** present included Scott McCoy, Assistant City Attorney; Alyssa Linville, Assistant Director/Zoning Administrator; Amelia Griffin, Assistant Planner; Richard Munguia, Senior Planner; Chad Brown, Associate Planner; Jessenia Juarez, Administrative Assistant and Alex Marquez, Administrative Assistant.

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**Ramirez** called the meeting to order at 9:30 a.m.

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**CONSENT CALENDAR**

**Ramirez** approved the minutes of October 8, 2020.

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**PUBLIC HEARINGS**

**CUP-30100-2020:** *This is a request by Jon Matheus, on behalf of the Ingold Family Investments CA, LLC, for a Conditional Use Permit to allow an adhesive coating manufacturing facility which requires a state license, in the Heavy Industrial (H-I) District. The property is located at 7016 E. 30<sup>th</sup> Street, Suite 101, Yuma, Arizona.*

**Amelia Griffin, Assistant Planner**, summarized the staff report, recommending **APPROVAL**.

**QUESTIONS FOR STAFF**

None

**APPLICANT/APPLICANTS REPRESENTATIVE**

None

**OPEN PUBLIC COMMENT**

None

**DECISION**

**Ramirez** granted the Conditional Use Permit, subject to the Conditions of Approval in Attachment A, finding the seven criteria have been met.

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**VAR-32027-2020:** *This is a request by Lisa Richardson for a variance to reduce the street side setback from 10' to 6' to allow the construction of an awning, in the Manufactured Housing Subdivision (MHS) District, for the property located at 1145 S Dora Avenue, Yuma, AZ.*

**Richard Munguia, Senior Planner**, summarized the staff report, recommending **DENIAL**.

**QUESTIONS FOR STAFF**

**Ramirez** asked if the awnings were facing the street. **Munguia** stated yes. **Ramirez** asked if it was blocking anyone's view. **Munguia** said he did not have that answer. **Ramirez** asked if he had received complaints from any neighbors. **Munguia** said he had not.

**Ramirez** referred to the staff report on section D, which indicated that granting the variance would not be materially detrimental. **Ramirez** asked if that was correct. **Munguia** said yes.

**Ramirez** asked if other residents had similar awnings. **Munguia** said there might be other residents that had similar awnings, but they were not on corner lots such as this one. This request was specifically for the street side to reduce the setback. **Munguia** continued that he did not find any variances or approved permits which permitted the reduction of the street side setback. **Ramirez** asked if the City would be inclined to accept the variance if the setback was more than 6 feet but less than 10 feet. **Munguia** said yes. **Ramirez** asked what would be the City's recommendation. **Munguia** replied that he would have to speak with the applicant to see what best accommodates her.

#### **APPLICANT/APPLICANTS REPRESENTATIVE**

**Lisa Richardson, 1145 S. Dora Avenue, Yuma, AZ 85364**, said Magnolia Village is a fifty-five and older community and the street she lives on is a dead end in a cul-de-sac, and does not have much traffic. **Richardson** said she does not see how the setback would cause visibility issues or be a detriment to the City. **Richardson** continued to state that her intentions were to improve the property and have shaded parking. **Ramirez** asked how long she had owned the property. **Richardson** said she purchased the property on May 19, 2020. **Ramirez** then asked if it was her intention were to have that property be her primary resident. **Richardson** said yes.

**Munguia** said if the awning was used for parking the minimum size required would be 10 or 11 feet for car door clearance. **Munguia** continued by saying the City would not be opposed to reducing the setback from 10 feet to 8 feet. **Ramirez** asked the applicant if the City's offer would provide the benefits she sought. **Richardson** said it could. **Ramirez** stated that "could" and "it will" are two different things, and asked if she needed a minute to consider. **Richardson** then asked if the original awning proposal of 13.1 feet wide would then be reduced to 11.1 feet. **Munguia** explained that the originally proposed awning measured 13 x 31 estimating the height to be 10ft; **Munguia** continued by stating that an 8 foot setback would result in an 11 foot wide awning. **Richardson** stated the City's offer of 8 feet would work.

#### **OPEN PUBLIC COMMENT**

None

#### **DECISION**

**Ramirez** granted the Variance, modified to reduce the setbacks from 10 feet to 8 feet, finding the four criteria have been met.

**Attorney Scott McCoy** asked the approval would also include the Conditions of Approval in attachment A. **Ramirez** stated yes.

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**VAR-32273-2020:** *This is a request by Henry and Shannan Gonzalez, for a variance to reduce the side yard setback from 10' to 7' to accommodate the placement of a new single-family home, in the Residential Estate (RE-12) District, for the property located at 8334 E. Adobe Ridge Road, Yuma, AZ.*

**Chad Brown, Associate Planner**, summarized the staff report, recommending **APPROVAL**.

#### **QUESTIONS FOR STAFF**

**Ramirez** asked if the applicant agrees with the conditions. **Brown** stated yes.

#### **QUESTIONS FOR STAFF**

None

#### **APPLICANT/APPLICANTS REPRESENTATIVE**

None

#### **OPEN PUBLIC COMMENT**

None

**DECISION**

**Ramirez** granted the Variance, subject to the Conditions of Approval in Attachment A, finding the four criteria have been met.

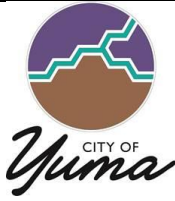
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**Ramirez** adjourned the meeting at 9:42 a.m.

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Minutes approved and signed this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Hearing Officer



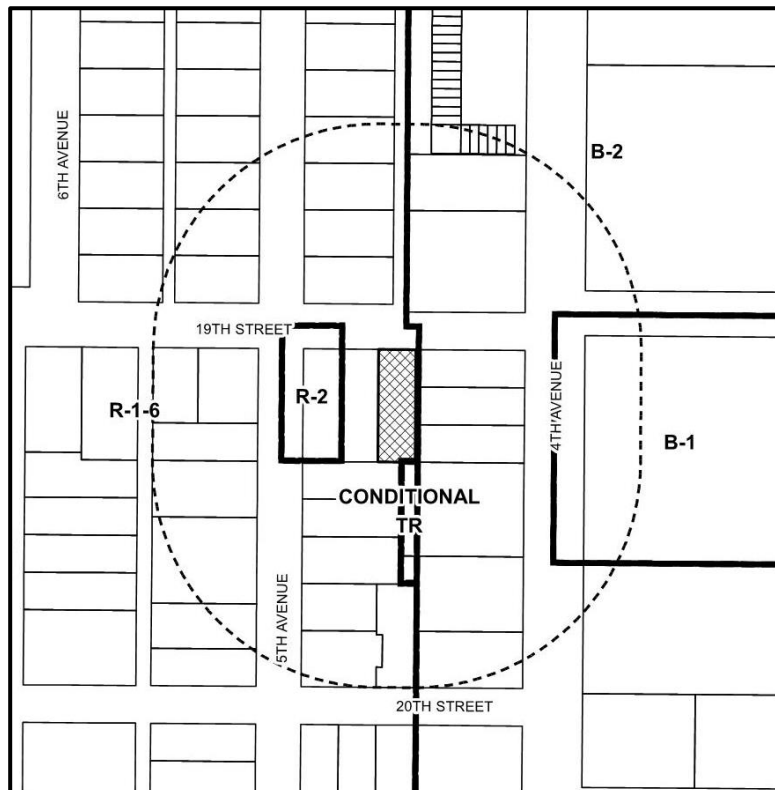
**STAFF REPORT TO THE HEARING OFFICER  
DEPARTMENT OF COMMUNITY DEVELOPMENT  
COMMUNITY PLANNING DIVISION  
CASE TYPE – VARIANCE  
Case Planner: Amelia Griffin**

**Hearing Date:** December 10, 2020      **Case Number:** VAR-32584-2020

**Project Description/Location:** This is a request by Michael and Lori O’Kelley, for a variance to reduce the front yard setback from 20’ to 8’, reduce the side yard setback from 7’ to 0’, and increase the lot coverage from 35% to 37.5% to allow the construction of a carport, in the Low Density Residential (R-1-6) District, for the property located at 439 W. 19<sup>th</sup> Street, Yuma, AZ.

	Existing Zoning	Use(s) on-site	General Plan Designation
<b>Site</b>	Low Density Residential (R-1-6)	Residential	Low Density Residential
<b>North</b>	Low Density Residential (R-1-6)	Residential	Low Density Residential
<b>South</b>	Low Density Residential (R-1-6)	Residential	Low Density Residential/ Commercial
<b>East</b>	General Commercial (B-2)	Express Lube	Commercial
<b>West</b>	Low Density Residential (R-1-6)	Residential	Low Density Residential

**Location Map:**



**Prior site actions:** Annexation: Ord. #449; Pre-Development Meeting: PDM-31853-2020 (August 25, 2020).

**Staff recommendation:** Staff recommends **DENIAL** of the request to reduce the front yard setback from 20' to 8', reduce the side yard setback from 7' to 0', and increase the lot coverage from 35% to 37.5% to allow the construction of a carport. Although Staff is not recommending a variance for the aforementioned items, if a variance is granted Staff recommends that the variance be conditioned to include conditions listed in Attachment A.

Have there been any other variance requests of a similar nature in the vicinity and zoning district? (If "YES", attach vicinity map showing locations of those variances)	No
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**Staff Analysis:** The subject property, located within the La Mesa Hermosa Subdivision, is located approximately 100' of the southeast corner of 5<sup>th</sup> Avenue and 19<sup>th</sup> Street. The subdivision, La Mesa Hermosa, was subdivided on March 23, 1926 and annexed into the City of Yuma on May 29, 1946. Developed in the County, the property originally consisted of a residence and garage in the rear. The parcel size is approximately 7,500 square feet. The subject property is zoned Low Density Residential (R-1-6) District and is subject to the following development standards: minimum front yard setback of 20 feet, side yard setback of 7 feet, rear yard setback of 10 feet, and 35% maximum lot coverage.

The applicant is requesting a variance to reduce the front and side yard setback requirements as well as increase the maximum lot coverage to 37.5% in order to construct a carport on the property. The applicant is proposing an approximately 22' by 22' attached wooden carport with a metal roof in front of the residence, which is anticipated to encroach 12 feet into the current 20 foot front yard setback and into the side yard setback. The proposal being presented exceeds the allowable area for the residence, with a total of 2,812 square feet. The property has been developed to its near maximum potential.

After further review of the property, staff has determined that there are no special circumstances that apply to the property in regard to the size, shape, or layout. Locating a carport in the front setback would not be in character with the rest of the neighborhood. While the surrounding properties do have existing garages and carports, they are not located within the front yard setback.

**1. Does the proposed variance meet the criteria of §154-03.04(D)(1) of the Yuma City Code?**

**A) *"There is a special circumstance(s) or conditions(s) that applies to the property, building, or use referred to in the application, that does not apply to most other properties in the district."***

Is this statement correct for this application?

☐ Yes ☒ No

Applicant Response: "Our house was built in 1926. The driveway went under the arch to the garage out back. The arch is too small to get vehicles under now due to bigger size vehicles. We have lived here for 40 years and have done improvements to our property over the years. We would like a carport to have some shade for our cars. As we are older now the sun and heat are just getting to be too much for us."

Staff Analysis: According to the applicant, the special circumstance that applies to this property is the decorative arch, adjacent to the existing driveway, that restricts the property owners from accessing the existing garage in the rear. While this access concern may be valid, there remains the opportunity to alter the existing arch to allow the homeowners to utilize the existing parking on this property. Additionally, there is not a special circumstance, or condition, that applies to this property in regard to the size, shape, or layout. The subject property is similar in dimension and area to other lots in the area. The subject property is fifty feet (50') in width, which meets the minimum lot width required in residential zoning districts and one hundred fifty (150') feet in depth, with a square footage of approximately 7,500 square feet.

**B) “The special circumstance was not created or caused by the property owner or applicant.”**

Is this statement correct for this application?

☐ Yes

☒ No

Applicant Response: *“It was not caused by us due to the fact that our house is so old and we cannot get to our garage anymore due to size of arch and cars.”*

Staff Analysis: After further review of the property, it was determined that the special circumstance was created by the property owner. The decorative arch, which restricts access to the existing driveway and garage, was a result of the existing driveway being converted into a patio. Additionally, the current homeowners added the existing accessory structures to the property, leaving little opportunity for any further expansion that could meet the maximum allowable lot coverage.

**C) “The granting of the variance is necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity, under identical zoning designations.”**

Is this statement correct for this application?

☐ Yes

☒ No

Applicant Response: *“The granting of this variance is necessary. Other property owners in the vicinity have newer homes built with carports or garages attached to them.”*

Staff Analysis: While other property owners in the vicinity have attached carports or garages, the original design of this property included a driveway and garage in the rear; this driveway was later converted into a patio. In conclusion, the granting of the variance is not necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity, under identical zoning designations.

**D) “The granting of the variance will not be materially detrimental to any person residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public health, safety, and general welfare.”**

Is this statement correct for this application?

☒ Yes

☐ No

Applicant Response: "The granting of this variance will not be detrimental to anyone in the vicinity. We have spoken to our neighbors and they all think it would be great for us to have a carport."

Staff Analysis: The granting of this variance will not be materially detrimental to any person residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public health, safety and general welfare. If the variance were granted the construction of the structure would need to meet development standards required of Building Safety.

**2. Are any of the adjacent property owners opposed to this request? No**

**Public Comments Received:**

Name:	Edie Sturdivant				Contact Information: yumaedie@gmail.com			
Method of Contact:	Phone		FAX		Email	x	Letter	Other
Requested proposed site plan. Did not have concerns or objections to this variance request.								

**External Agency Comments:** See Attachment.

**Neighborhood Meeting Comments:** No Meeting required.

**Proposed conditions delivered to applicant on:** December 1, 2020

**Final staff report delivered to applicant on:** December 2, 2020

<input checked="" type="checkbox"/>	Applicant agreed with all of the conditions of approval on: December 1, 2020
<input type="checkbox"/>	Applicant did not agree with the following conditions of approval: (list #'s)
<input type="checkbox"/>	(If the Planner is unable to make contact with the applicant – describe the situation and attempts to contact.)

**Attachments**

A	B	C	D	E	F
Conditions of Approval	Site Plan	Agency Notifications	Agency Comments	Site Photos	Aerial Photo

Prepared By:  Date: 12/1/20  
 Amelia Griffin  
 Assistant Planner  
 Amelia.Griffin@yumaz.gov (928)373-5000, x3034

Approved By:  Date: 12/02/20  
 Alyssa Linville,  
 Assistant Director Community Development

**ATTACHMENT A**  
**CONDITIONS OF APPROVAL**

The following conditions have been found to have a reasonable nexus and are roughly proportionate to the impact of the proposed variance for the site:

**Department Of Community Development Comments: Alyssa Linville, Assistant Director  
Community Development, (928) 373-5000 x 3037:**

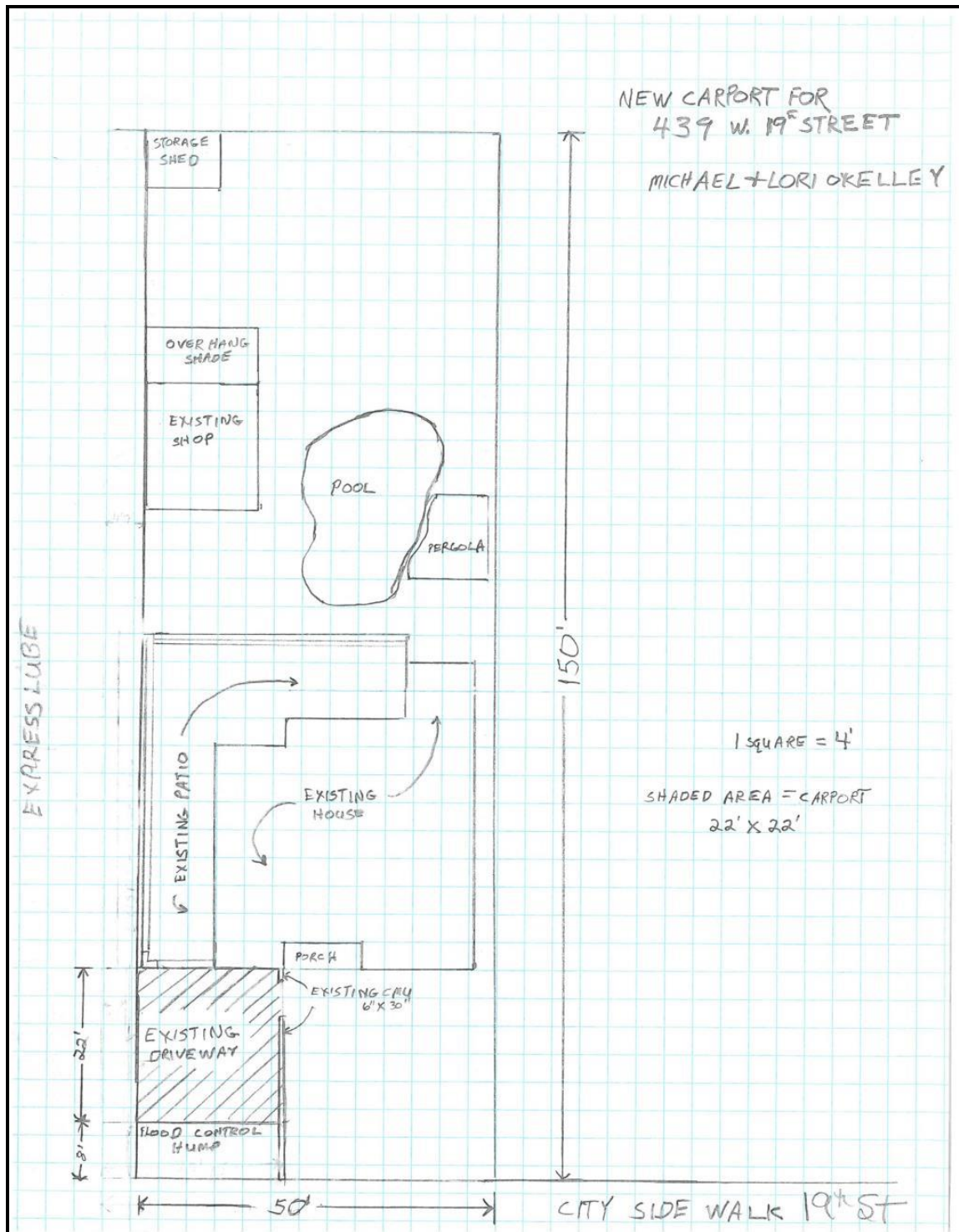
1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action request takes the place of the requirement for a separate notarized and recorded "Waiver of Claims" document.
3. The Owner shall submit to the City of Yuma, for recordation, a signed and notarized Avigation Easement on the property acknowledging potential noise and overflight of aircraft from both daily and special operations of the Marine Corps Air Station and the Yuma International Airport.

**Community Planning: Amelia Griffin, Assistant Planner, (928) 373-5000 x3034**

4. The conditions listed above shall be completed within one (1) year of the effective date of the approval of the Variance or prior to the issuance of a Building Permit, Certificate of Occupancy or City of Yuma Business License for the property. In the event that the conditions are not completed within this time frame, the Variance shall be null and void.
5. In any case where a Variance has not been used within one year after the granting thereof, it shall be null and void.
6. Prior to the expiration date of the Variance, the applicant has the option to file for a one-year time extension.

**Any questions or comments regarding the Conditions of Approval as stated above should be directed to the staff member who provided the comment. Name and phone numbers are provided.**

ATTACHMENT B  
SITE PLAN



## ATTACHMENT C AGENCY NOTIFICATIONS

- Legal Ad Published: The Sun (11/16/20)
- 300' Vicinity Mailing: (11/11/20)
- Site Posted on: (12/03/20)
- 34 Commenting/Reviewing Agencies Noticed: (11/11/20)
- Neighborhood Meeting Date: (N/A)
- Hearing Date: (12/10/20)
- Comments Due: (11/23/20)

<b>External List (Comments)</b>	<b>Response Received</b>	<b>Date Received</b>	<b>"No Comment"</b>	<b>Written Comments</b>	<b>Comments Attached</b>
Yuma County Airport Authority	NR	11/18/20	X		
Yuma County Engineering	NR				
Yuma County Public Works	NR				
Yuma County Water Users' Assoc.	Yes	11/13/20	X		
Yuma County Planning & Zoning	NR				
Yuma County Assessor	Yes	11/12/20	X		
Arizona Public Service	NR				
Time Warner Cable	NR				
Southwest Gas	NR				
Qwest Communications	NR				
Bureau of Land Management	NR				
YUHS District #70	NR				
Yuma Elem. School District #1	NR				
Crane School District #13	NR				
A.D.O.T.	Yes	11/12/20	X		
Yuma Irrigation District	Yes	11/12/20	X		
Arizona Fish and Game	NR				
United States Postal Service	NR				
Yuma Metropolitan Planning Org.	NR				
El Paso Natural Gas Co.	NR				
Western Area Power Administration	NR				
<b>City of Yuma Internal List (Conditions)</b>	<b>Response Received</b>	<b>Date Received</b>	<b>"No Conditions"</b>	<b>Written Conditions</b>	<b>Comments Attached</b>
Police	NR				
Parks & Recreation	NR				
Development Engineering	NR				
Fire	Yes	11/16/20	X		
Building Safety	Yes	11/20/20			X
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	Yes	11/18/20	X		
Utilities	NR				
Public Works	NR				
Streets	NR				

**ATTACHMENT D**  
**AGENCY COMMENTS**

Conditions of approval must be written in the form of a formal condition for use in Planning and Zoning staff reports. Your conditions will be used verbatim. If you also have a comment, please indicate below.

☐ Condition(s)

☐ No Condition(s)

☒ Comment

Enter conditions here: Comment from Building Safety Division. If this variance is granted, there are significant building code requirements for construction of a carport along the East property line. If carport is wood construction, a 1-hour fire resistive wall with no openings will be required along the east side of the carport, along the property line, full-height to underside of the roof deck. If the carport is metal (noncombustible construction), which would be a freestanding awning or other engineered structure, Building Safety could recognize the adjacent 5' wide Utilities Easement, that runs adjacent to the east property line, as sufficient fire separation distance from the adjoining property, with no fire resistive wall construction required.

DATE:	11-20-2020	NAME:	Alan Kircher	TITLE:	Deputy Building Official
CITY DEPT:	DCD/Building Safety				
PHONE:	928-373-5169				
RETURN TO:	Amelia Griffin Amelia.Griffin@YumaAZ.gov				

**ATTACHMENT E**  
**SITE PHOTOS**



ATTACHMENT F  
AERIAL PHOTO

